EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3 DOCKET NO.: 2005-0133-PST-E TCEQ ID: RN101495539 CASE NO.: 23791 RESPONDENT NAME: CEDAR PARK E & J, LTD.

		No.				
ORDER TYPE:		·				
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING				
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
AMENDED ORDER						
CASE TYPE:						
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE				
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION				
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL				
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION				
SITE WHERE VIOLATION(S) OCCURE TYPE OF OPERATION: Convenience store	RED: 430 North Bell Boulevard, Cedar Park, W	Villiamson County				
•	<u> </u>					
SMALL BUSINESS: X Yes1	No					
OTHER SIGNIFICANT MATTERS: The regarding this facility.	re are no complaints. There is no record of add	litional pending enforcement actions				
INTERESTED PARTIES: No one other tha	an the ED and the Respondent has expressed ar	n interest in this matter.				
COMMENTS RECEIVED: The Texas Reg	ister comment period expired on July 9, 2007.	No comments were received.				
CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320; Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, MC 128, (512) 239-0068 TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929 Respondent: Mr. Edward S. Gernert, Jr., President, Cedar Park E & J, Ltd., 4520 Hibiscus Drive, Austin, Texas 78739-1424						
Respondent's Attorney: Not repres	sented by counsel on this enforcement matter.					

RESPONDENT NAME: CEDAR PARK E & J, LTD. DOCKET NO.: 2005-0133-PST-E

Type of Investigation: Total Assessed: \$23,625 Total Deferred: \$20,025* Complaint X Routine Enforcement Follow-up Expedited Settlement X Records Review X Financial Inability to Pay Date of Complaints Relating to this Case: Total Paid/Due to General Revenue: \$100/\$3,500 None Dates of Investigation Relating to this Case: October 20, 2004 and January 3, 2005 The Respondent has paid \$100 of the undeferred administrative penalty. The remaining amount of Date of NOE Relating to this Case: \$3,500 shall be payable in 35 monthly payments of December 21, 2004 \$100 each. Background Facts: An EDPRP was filed on Site Compliance History Classification August 24, 2005. The Respondent filed an __ High X Average __ Poor Answer on September 13, 2005, and the matter was referred to SOAH. The Respondent Person Compliance History Classification requested a financial inability to pay analysis. __ High X Average __ Poor The TCEO Financial Division conducted a Major Source: ___ Yes _X No review and determined that the Respondent

PST:

FIP deferral.

1. Failed to install overfill prevention equipment on each underground storage tank ("UST"). Specifically, the USTs were not equipped with a valve or other device which is designed to prevent overfill during product transfer [30 Tex. ADMIN. CODE § 334.51(b)(2)(C) and Tex. WATER CODE § 26.3475(c)(2)].

could pay \$3,600 (\$100/mo. for 36 months). The Respondent signed an Agreed Order on

October 26, 2006, and submitted a revised Agreed Order on April 11, 2007. A follow-up

financial review was then requested to verify that the Respondent was still eligible for an

- 2. Failed to conduct the annual line leak detector test on each UST to determine performance and operational reliability [30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and Tex. WATER CODE § 26.3475(a)].
- 3. Failed to make available, to a common carrier, a valid and current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 Tex. ADMIN. CODE § 334.8(c)(5)(A)(i) and Tex. WATER CODE § 26.3467(a)].

Corrective Actions Taken:

The Executive Director recognizes that the Respondent no longer owns the property or Facility.

The Executive Director further recognizes that the outstanding balance for UST fees for 2005 was paid by the Respondent on November 21, 2005.

Applicable Penalty Policy: September 2002

RESPONDENT NAME: CEDAR PARK E & J, LTD.

I	OCKET NO.	: 2005-0133-PST-E	E

VIOLATION SUMMARY CHART	:	
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
4. Failed to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-Certification Form to the Commission [30 Tex. ADMIN. CODE § 334.8(c)(5)(B)(ii)].		
5. Failed to investigate within 30 days suspected releases from three USTs and to report within 24 hours based on statistical inventory reconciliation ("SIR") results. The SIR reports indicated unacceptable results for November 2003 and February, March, and August 2004 for the diesel tank; October 2003 and March 2004 for the premium tank; and January and March 2004 for the unleaded tank [30 Tex. ADMIN. CODE §§ 334.72 and 334.74].		
6. Failed to pay the underground storage tank fee for fiscal year 2005. Specifically, TCEQ Financial Administration Account No. 0054125U was found to have an outstanding balance [30 Tex. ADMIN. CODE § 334.22(a) and Tex. Water Code § 5.702].		

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Penalty Calculation Worksheet (PCW)	v.
Policy Revision 2 (September 2002) PCW Revision December 2002	per 10, 2004
TCEQ	A-VEC SENSETTI NON ORGANISMO ENGLES OF THE ENGLES
DATES Assigned 28-Dec-2004 PCW 21-Jan-2005 Screening 13-Jan-2005 Priority Due 26-Feb-2005 EPA Due	
Scientify Novamezood Scientify Novamezood Fronty Due 201 ep-2000 1 (E.P. Due 17)	
RESPONDENT/FACILITY INFORMATION	
Respondent Cedar Park E & J. Ltd.	
Reg. Ent. Ref. No. RN101495539 Additional ID No(s). Petroleum Storage Tank Registration No. 53512	
Facility/Site Region 11-Austin Major/Minor Source Minor Source	
THE STREET STREET	JAPAN S
CASE INFORMATION	
Enf./Case ID No. 23791 No. of Violations 6	
Docket No. 2005-0133-PST-E Order Type 1660 with deferral Case Priority 2 Enf. Coordinator Colin Barth	3
Media Program(s) Petroleum Storage Tank EC's Team Enforcement Team	7 3
Multi-Media	
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000	·····
Penalty Calculation Section	
Cash enalty Carculation Sections	
TOTAL BASE PENALTY (Sum of violation base penalties)	\$22,500
OTTE 2500 SESTED THE CONTROL OF THE	922,50 0
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History 5% Enhancement Subfotals: 2, 3, & 7	\$1,125
Notes The Respondent was issued a Notice of Violation (NOV) dated April 24,	
2000 for similar/same violations.	· · ·
Culpability No < 0% Enhancement Subtotal 4	'sc
Guipability NO Subtotal Subtot	ФС
Notes The Respondent does not meet the culpability criteria.	
	i.à
	\$0
Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary Ordinary	
NIA X (mark with a small x)	
Notes TEC December 1997	
Notes The Respondent is not yet in compliance.	
Economic Benefit 0% Enhancement Subtotal 6 Total EB Amount \$759 *Capped at the Total EB \$ Amount	<u> </u>

Final Subtotal \$23,625

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Adjustment

42014

Final Assessed Penalty \$23,625

Final Penalty Amount

Approx. Cost of Compliance

STATUTORY LIMIT ADJUSTMENT

OTHER FACTORS AS JUSTICE MAY REQUIRE

SUM OF SUBTOTALS 1-7

Notes

Notes

PAYABLE PENALTY

\$6,838

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

No deferral offered for non expedited case.

TELL SEE HEAVEN BALL THE

Participation in a voluntary pollution reduction program
Early compliance with, or offer of a product that meets future state or rederal government environmental requirements

Adjustment Percentage (Subtotal 2) 59/

>> Repeat Violator (Subtotal 3)

No Subtotal 3)

Adjustment Percentage (Subtotal 3) 09/

>> Compliance History Person Classification (Subtotal 7)

Average Performer Adjustment Percentage (Subtotal 7) 09/

>> Compliance History Summary

Compliance The Respondent was issued a Notice of Violation (NOV) dated April 24, 2000 for similar/same violations.

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Page 3 of 14. 05/21/07 H:\ENFORCE\KGilbreth\P'S T\Cedar Park E & J\Enf. Docs\revised-PCW.qpw

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Case ID No.					PCW Revision Dece	mber 10, 2004
Reg. Ent. Reference No.	<u> </u>	16.7s	. to a feet	***	ि 38} % प्र	·
Additional ID No(s).		_	ition No. 53512		and the second of the second	ē.
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Enf. Coordinator	Colin Barth	· w	. జక్కికి	erste v		
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Secondary Rule Cite(s)		Tex. Water 0	Code § 26.3475(c)(2)			1
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Violation Description	valve or other dev	rice which is de	ally, the USTs were no esigned to prevent ove g the October 20, 200	erfill during	product	*
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			Bas	e Penalty	Subtotal	\$2,500
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Violation Far a Penalty Total

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This violation Final Assessed Ponsity (adjusted for limits)

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Screening Date			.: 2005-0133-PSŢ-E	Secretarion of the Control of the Co	ew -
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Enf. Coordinator	Colin Barth		Maria China Milana and Anna Anna Anna Anna Anna Anna An	and the state of t	
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October	20, 2004, to the da	te compliance was ac 2004.	mieved, October 22,		
Economic Benefit (EB) for this viol	ation	Statutory Limit T	est	
Estimated EE	3 Amount \$25	2	Violation Final Per	alty Total	\$2,625
	Thic v	iolation Final Assess	sed Penalty (adjusted	for limits)	\$2,625
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Respondent Case IDINo	Cedar Park E & J, Ltd. 23791	水 E & J. Ltd.	Willy A. Cedar Pa	
Reg. Ent. Reference No.	RN101495539 Petroleum Storage Tank Reg	rietration No. 53512	11.00 (1.00	erices Sono Stanford Comments
Media [Statute]	Petroleum Storage Tank	asse Teres Redistrar	Perce	nt Years of
Violation No.	2		Intere	
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Page 7 of 14 05/21/07 H:\ENFORCE\KGilbreth\P S T\Cedar Park E & J\Enf. Docs\revised-PCW.qpw

Screening Date	12 Ion 2005	Docket N	o: 2005-0133-PST-E	PCW
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Additional ID No(s).	,	•	5. 53512	The San State of the
Media [Statute]	Petroleum Storage	Tank		(1) (1) (1) (1) (1) (1) (1) (1) (1) (1)
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Primary Rule Cite(s)	3	0 Tex. Admin. Code §	334.8(c)(5)(A)(i)	
Secondary Rule Cite(s)		Texas Water Code	§ 26.3467(a)	
		available to a commo	on carrier a valid, curren	TCEQ
Violation Description	delivery certificate	before delivery of a r	egulated substance into	the USTs
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			exposed to insignificant	areas of a
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		200	Adjustment	
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	1.00	and and the second of the seco	Base Penaity	ySubtotal \$500
Western State				An Ha, Gellen
Violation Events			<u> </u>	
Number of Violati	ion Events	evel	1.00	- see and the see
Vi Noiat	on Livents [188 210	<u>****</u>	\$11.00 m	100
	□ daily □	·		
	monthly.			
mark only one	C47830 344018 30	20	Violation Bas	se Penalty \$9,000
use a small x	semiannual			
	, annual		•	T T T T T T T T T T T T T T T T T T T
	single event X			
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			on eighteen deliveries	
received (on July 1, 3, 8, 12, 1	7, 21, 25, 30, August	3, 5, 9, 13, 19, 24, 26,	
27, 31 a			uring the October 20,	,
	۷.	004 investigation.		1
Economic Benefit	EB) for this vio	lation	Statutory Limit 1	est
<u>.</u> i		<u></u>	10.1.0 E. 15	-14. Ť-4-1
Estimated El	3 Amount \$	3	Violation Final Per	nalty Total \$9,450
	Thick	violation Final Acces	sed Penalty (adjusted	for limits) \$0.450
	ınıs v	ioiauun Filidi ASSeS	seu renany (adjusted	for limits) \$9,450

wrane of the second	2.707		fire terrores and the second	Seu-, Ow.qpw	
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	Cedar Park E & J, Ltd.	hrll 8 #1 &	MANG Ceast Par	in reput	
Case ID No.	23791	5.0 - M	PART ZAZA		
Reg Ent Reference No.			7 mm - 12	it inggeneget Afrika terakendan sa	Salah Maria
Additional ID No(s):	Petroleum Storage Tank Reg	istration No. 53512 980%	CHARLED AND SERVICE		
Weda (Statute)	Petroleum Storage,Tanky	Storage Tark Registrati	Tetroleum	CHARLES TO SECURE	irs of
Violation No.	3			The state of the s	ciation
	ltem Date		Mark Mark House	5:0	15
ltem		Final Yrs	APPLICATE STATE OF ST	AND A PERSONAL PROPERTY.	EB#
A TENNES OF THE PERSON NAMED IN THE PERSON NAM	Gost Required	Date	Saved: ' Co	osts An	ount
AND DESCRIPTION OF THE PROPERTY OF THE PROPERT	TNO COMMASO PARTIES AND THE STATE OF THE STA	Maria de Maria de Maria de Cardo. A Maria de M		en Killer (1917) Kalendar	MARKAN
Delayed Costs					
Equipment	Processor Francisco	1.00	ovidali \$0 neita	\$0	\$0
Buildings		0.0	\$0	\$0	\$0
Other (as needed)	The REPARENCE CONTROL	0.0	\$0	\$0	· \$0
Engineering/construction		0.0	\$0	\$0	\$0
Land		0.0	- In a to the second se	/a	\$0
Record Keeping System		0.0	The state of the s	PERSONAL PROPERTY.	\$0
Training/Sampling	**************************************		- IN 1822 PAGE	/a	\$0
Remediation/Disposal	Eggs (1995) Branch (1995)	0.0	\$12K\$\$\$\$\$\$\$	/ari	\$0
Permit Costs		0.0	500000000000000000000000000000000000000	la l	- \$0 J.,
Other (as needed)	\$50 01 May-2004	01-Jul-2005 1.2	ALCOHOLD TO THE RESIDENCE OF THE PARTY OF TH	/aV = /	%\$3.°°
	Estimated cost to post a valid	TCEQ delivery certifica	te available for cor	nmon carrier's	review
Notes for DELAYED costs	prior to fuel delivery. Date re	equired (May 1; 2004) is	the expiration date	e of the facility	s last
	delivery certificate and the	final/date (July 14, 2005)	is the estimated d	ate of complia	nce.
	- One distribution that V	. In the second of the second		u Navidaci s	145.83t;
	The state of the s				
Avoided Costs	ANNUALIZE [1] avoided	l costs before entering item (A SUPPLEMENT OF STREET OF STREET OF STREET	the production of the producti	
Disposal		7.10.10.7.7.7.7.10.10.10.10.10.10.10.10.10.10.10.10.10.	40 30 3 4 44 44	ALIASH FIFT	\$0
Personnel	25002000	ZATES NOV AND CAPE SOLICE COM		\$0 4 400	40
Inspection/Reporting/Sampling		(1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 × 1.0 0.0 ×	\$0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0	\$0
Financial Assurance [2]		0.0		\$0 50	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0	\$0
)급을 Other (as needed)		0.0	\$0	\$0]	\$0
Notes for AVOIDED costs	ring and state of Val. Without the section of succession	อง รายการทำให้เล่นสายสินสาสเสนาใหญ่ เล่นสามารถสามารถสามารถสามารถ	และเกาะเกาะ	kirja kitomina finakturus, mismosi	er eine earte out on d
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Approx. Cost of Compliance	\$50		anta Nion Evants	TOTAL M	\$3
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Page 9 of 14 05/21/07 H:\ENFORCE\KGilbreth\P S T\Cedar Park E & J\Enf. Docs\revised-PCW.qpw

	Screening Date Respondent	Cedar Park E & J,	to the character and the property of the second of	ket No. 2005-	0,000-1,017-1	Policy Revi	, yr = 14	PCW ember 2002)
	Case ID No.			•	 			ber 10, 2004
Reg. Ent.	Reference No.	RN101495539	* * * * * *	i hi			اماد الإ ل المادة	
Account to the second s	tional ID No(s).	_	-	tion No. 53512	,	oring Maria.		
	Media [Statute]		e Tank	,				
	nf: Coordinator Violation Number	Colin Barth			*	35X	.*	
1 13 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	imary Rule Cite(s)		30 TAC §	334.8(c)(5)(B)(i	i)	7 22 2 2 2 2 2 3 4 3 4 3 4 4 4 4 4 4 4 4	4,4	***************************************
	ndary Rule Cite(s)							
		Failure to ensu					the prof.	
Vio	lation Description	proper submission	n or a new UST to the	Commission.	a Sen-Gerunca	uon Form		
Ж	· J	**	13 1 3 1 A 43 A 44 A 45 A 45 A 45 A 45 A 45 A 45	(25) (42) (44) (16) (46) (46) (17) (17) (17)	44.75 (See	; ** / :		
(5)4		al jost i tal	Andrew Contraction of State		Ba	se Penalty[ு. அதன் விழி	\$10,000
CATALOGUE TO SECURITION OF THE	ironmental, Pro	perty and Hum	ian Health M	atrix		and a second	**	
		(1) 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	The state of the s	4		eraf i girti. Liji i gazi i e	· Stace	
OR	Release Actual	Major Moderat	e Minor	200	· 14.	Brief a s		
	Potential			Perc	ent		· '- / ³ .	
ss Pro	grammatic Matr				1994 - Sgg	* Soften a	S. ASS.	
	Falsification	Major Moderat	e Minor					
		X		Perc	ent 10%			
						& 350 T	k;	
Matr	ix Notes	100% of the r	ule requiremen	t was not met.		Talendary or St.		***************************************
			jan jadishiran ipajind Pada da katangan	equifilie Table 24 August 18	Adjustment	-\$9,000	of Kapani	e englishing
127	7.02 G.4	(4) (6) (b)	Na Nigel Selection	desir e	-Aujustinent	<u> </u>	rangelia .	
-01	08 08	展 (0.0 A (0.0)	Magnetines of the s	, s	Base Penalt	y Subtotal [The grant plant	\$1,000
Viol	ation Events						eano	
						218400 /25	e state	a de la companya de l
	Number of Violation	on Events 1	-			. *		
183 F	e martinary e martin angle e e e	daily.	950		A STATE OF THE STA	Low See Super Sec.	coming a	
	mark only one	monthly	<u>1884</u> 3876		Violation Bas	so Donaity		\$1,000
	mark only one use a small x	quarterly semiannual			· ·	se remaily_		Ψ1,000
		annual	7/2		• •			
		single event X						
,		e event is recomm						
•	date, as o	locumented during	the investigation 2004.	on, conducted on	October 20,			
Eco	nomic Benefit (EB) for this vic	lation	Statu	itory Limit 1	est	1.1.	
	Estimated EE	Amount	32	Viola	tion Final Per	nalty Total		\$1,050
		This	iolation Final	Assessed Pena	alty (adjusted	for limits)		\$1,050
							(K) 2 (A) (B) (B) (B)	COLUMN CASTA

	A THE RESERVE OF THE LAND ASSOCIATION OF THE PARTY.	THE RESERVE THE PROPERTY OF THE PARTY OF THE		Market State To			
			enefit Wor	kshe	et		
Respondent	Cedar Park E & J	Ctd.	rintellinen er en		Conductivity of a		ACTION ACTION
Case ID No.			<i>i</i> 11.	! ខ្គិក	Gaster Pork 6	Alaman property (Co.	Marian Marian Marian
Reg. Ent. Reference No.	RN101495539				:6 cc3	.cesiiessi	
Additional ID No(s)	Petroleum Storag	e Tank Regi	stration No. 53	512 🥡	and and agent	intelesioners	最佳的特殊的
Media [Statute]	Petroleum Storag	e Tank	T only Discriminations	ena negracija	Carnolanta C	- Percent -	Years of
Violation No.	4	S.S.M F.M K.D.J.	na hindra o samo		() (A)A910 II(A) ()	Interest	Depreciation
						5.0	想题 15
	Item	Date	Final	Yrs	Interest	Onetime	EB .
Item L	Cost	Required	Date	e la com	Saved	Costs	Amount
Description	No commas or \$					46.76	
The state of the s	And the Residence of the Assessment of the Control					v Rufe Græfe)	agarra.
Delayed Costs							
Equipment		N 31 3 3 5 5 5 5	252606404545	0.0	milia 1950 \$0	nottebben \$0	317 \$0
Buildings		ersot ke kara	S444-41 (14402)	0.0	\$0	\$0	\$0
Other (as needed)		grade and the		0.0	\$0	\$0	\$0
00 013 Engineering/construction	[2,5/42/03/2007]	500000000	Life and the second	0.0	. \$0	\$0	\$0
Land		300000000000000000000000000000000000000	W445456755674	0.0	\$0	n/a	\$0
Record Keeping System	5.0 (F. 1.24 Carticle 5.0)	ZERO (1902/2011)	(1.5. oznaka)	0.0	\$0	n/a	784 SO
Training/Sampling		WW. 1988	######################################	0.0	\$0	n/a	\$0
Remediation/Disposal		94,305,387	5 945 E 46 W 6 9 S	0.0	\$0	n/a	\$0
Permit Costs	The state of the s		20-Oct-2004	0.5	\$2	n/a	\$2
Other (as needed)			Physical Service Service	0.0	\$0	n/a	\$0
omor (ao nocasa)	Estimated cost to	The state of the s	lollyon, cortific			m the evoirati	
Notes for DELAYED costs	facility's last delive	en/certificat	a (May 15 200)	viintii t	he estimated	date of compli	ance (October
Notes for DELATED Costs	nacility 3 last delive	ery continuati		2004)		out of the	
		approximately (1	Thursday Fol	Estatuli.		Aldiesepholis	
	arrens 10%	A.	The state of the s				
	A STATE OF THE STA		icosts before ent				
Avoided Costs	STATES AND THE PROPERTY OF THE PARTY OF THE	10000	Charles and a large of the control of the control	and by the state of	A Company of the Comp		95(5) 11/1 11/10/51/1 ()\$0
Disposal	AND THE RESIDENCE AND ADDRESS OF THE PARTY O	CONTRACTOR DESCRIPTION	Service and American Action of the Control of the C		ALTERNATION OF THE PARTY OF THE	\$0	\$0
Personnel		**************************************	0.3625.2575.465	77.	\$0	T. T.	\$0 \$0
Inspection/Reporting/Sampling	22-14-07-4-16-08-2	100	2,645,579,759,576	0.0	Caldellabor and and the Land	\$0, \$0	\$0
Supplies/equipment		245,64	30.000 Sec. 1				
Financial Assurance [2]			32.00	0.0	\$0	\$0 *C	\$0
ONE-TIME avoided costs [3]		agelgeste c		0.0	\$0	\$0	\$0 60
Other (as needed)	the same of the sa	Sala (September)	00 Table 25 (05 (05 (05 (05 (05 (05 (05 (05 (05 (0			<u> </u>	
Notes for AVOIDED costs		STATE SHEET	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	A ASSESSED	And mark an expectation of the	of Seather William Sea in Beile a	
			(K)	up karinists	AND CALLEST OF B	San Market State of the State o	
			2129	و پېدا او او اد اندې د	- 2017年		
Approx. Cost of Compliance	\$100		العراب	erakerkania P	The styles	TOTAL	\$2
			16.7 16.7	diliportish!	444,425,44		
ale it was yes and a	esa nottaios	•	htta:	an Art Baldy V 3-4	Marine 1974	was state of the	
and the second s			, ligan	erobahw di A		yer.	
			to, to	r Verdilahadi. Sa			
			į.	ingini dinaku. V			•
			II.Ge,	Catalina Touring	A Marie and American Street, B.		
	2004 expression	College Report	a e processo de la banca.	io caract checepools	grander († 1866) Bardinionski skil	AL MARILES	
	ton Occober 20.					en i	
	Corner tournessinguisting 3 pm. 3	promotivations of the second	190 C.E.	etra and a	Anna and an anna an	- 4	
	ne-various anno en en estado de la cipa de culto de la constanta de la constan	kimenga Project sa rekati ob s	or chernalisa rafigalisana	edwa iwene	Nebbolighi (evirue que a com	milat alciania e amperio	•

Violetion Final Penalty Total

T 's violation Francesche (adjusted for limital)

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Screening Date	13-Jan-2005	Docket No	2005-0133-PST-E	PCW
	Cedar Park E & J, L	THE WE HAVE BY DUST THE SECOND STORY OF THE ACTION		Policy Revision 2 (September 2002)
Case ID No.			•	PCW Revision December 10, 2004
Reg. Ent. Reference No.		SEC LOS AN	in this You Const.	THE THE THE PERSON NAMED IN
Additional ID No(s).		Fank Registration No.	53512	A STATE OF THE STA
light with the right of the control	Petroleum Storage 1		•	Me na December V
Enf. Coordinator	Colin Barth		Wase - 2007	
Violation Number		mest street	All the substitute of the sec	<u>16 \$1988</u>
Primary Rule Cite(s)	30 T	ex. Admin. Code § 33	34.72 and 334.74	# 1
Secondary Rule Cite(s)			The second of th	13. 4. 4. 7. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.
13 <i>8</i> 84 - 120 (20 (20)			ected releases from thr	
532	('CIR'') regulte		tatistical inventory reco ated unacceptable resu	
Violation Description	November 2003 and	February, March and	August:2004 for the di	esel tank,
			remium tank, and Janu	ary and
		March 2004 for the un	ileaded tank.	
	100° 0'U	Michigan of Max	The Park Boo	e Penalty \$10,000
		er en	Das	e Penalty \$10,000
>> Environmental, Pro	perty and Huma	n Health Matrix		55 t
	Harm	A programme and the second of		
Release	Major Moderate	Minor		. ~
OR Actual			Percent 25%	
Potential	x		reiceiii 25%	
>> Programmatic Mat	rix			
Falsification	 Proceedings of the Control of the Cont	Minor	The same of the sa	#* · · · · · · · · · · · · · · · · · · ·
			Percent	Programme
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		A Million and A Company of the Compa		THE BAS STATE
	nealth or the environm n would exceed levels			According to the State of the S
Willow		ptors as a result of the		mig New York Groupes (See 1985)
				Continue Ba
			Adjustment	-\$7,500
				THE STREET OF STREET
g parameter many contractions and			Base Penalty	Subtotal \$2,500
Violation Events			METER STREET	
				Section of the sectio
Number of Violat	ion Events	1		***************************************
		ā		No.
	monthly			
mark only one			Violation Bas	e Penalty \$7,500
use a small x	semiannual			
	annual	3		
	single event			•
	quarterly events are re ecord review until the			
	cord review diffill life.	Apriliza, zooo selleri	ieni ueduine.	
Economic Benefit	(EB) for this viola	ition	Statutory Limit T	est
Estimated E	B Amount \$501	7	Violation Final Pen	alty Total \$7,875
Louinated L	_ ,	_		<u> </u>
	This vi	olation Final Assess	ed Penalty (adjusted f	for limits) \$7,875

	Fo	onomic B	enefit Wo	kch	eet		
Respondent	Cedar Park E		ing the state of t				
Case ID No.		,	770	∛ مار ا…ا	Coder Park E	NUMBER OF STREET	end in the
Reg. Ent. Reference No.					· const	AND BURNEY	
Additional ID No(s):	Petroleum Stor	rage Tank Reg	istration No. 53	3512	PANTOTABBEESD	Section 1	SON STREET
Media [Statute] Violation No.	Petroleum Stor	rage Tank	destring and	F signif	Felroleum (sto	Percent	Years of
Violation No.	5					Interest	Depreciation
	llean.	Date	Final	Yrs		AND CONTRACTOR OF PERSONS AND INCIDENT	15 EB
item	Item Cost	Required	Pinali Date	TIS	Interest Saved	Onetime*	Amount
Description	CONTRACTOR OF MILITIA PARTY OF THE PROPERTY OF THE PARTY	Kequileu	Date		Saveu	00015	Allouding and the second
The second secon				Charles III	CONTRACTOR	l (abotic clust)	PUTCH A STATE
Delayed Costs				e iden			
Equipment				0.0	************************	\$0	\$0
Buildings				0.0	<u> </u>	\$0	\$0
Other (as needed)	No. Applications	4444	24.5	0.0	·/· \$0	moliqir 29\$0	
Engineering/construction	A GARDA SARAH CARAN	A COMPANIE OF THE SECOND	And Tales Services		nac	\$0	\$0 \$0
Land Record Keeping System		i en la la calabra de la c La calabra de la calabra d	Garage St. Marry 1985	0.0	\$0 \$0	m/a	\$0 \$0
Record Reeping System Training/Sampling	\$5,000	31-Oct-2003	01-Nov-2005	2.0	\$0 \$501	n/a n/a	\$501
Remediation/Disposal	entre property		Secretary and a	0.0	\$0	n/at	\$0
Permit Costs	32.525 Level 3.	7. 31. 32. 32. 54. 54. 54. 54. 54. 54. 54. 54. 54. 54		0.0	80,	m/a	\$0
Other (as needed)		22573,975 5 49.0	4202421445	0.0	\$0	in/a	4.34(0.4) \$0
	Estimated cos	t to investigate	suspected rele	ases	from two USTs	based on SIR	results Date
Notes for DELAYED costs	required (Octo	ber 31, 2003)	is the date of th	e first	unacceptable	SIR report and	the final date
		্ৰ (Novemb	er 1, 2005) is p	roject	ed date of con	npliance:	
	Obstate a sur- anom			en (800) 800		anteriore en arte ndadas. Indianes artendadas (n. 1887).	
		areki			File Participation		
Avoided Costs	ANNL	ALIZE [1] avoide	d costs before en	ering i	tem (except for o	ne-time avoided c	osts)
Disposal	\$15,640,000,533,144	446 (1265)	7.54.77	0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	**************************************	\$0	.,\$0
Supplies/equipment		125,208,550,050		0.0	\$0	\$0	\$0
Financial Assurance [2]	potrat spulpas, control della		100000	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3] Other (as needed)	01_000100100100000			0.0	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)	- 15 - 15 - 15 - 15 - 15 - 15 - 15 - 15				φυ Visita is a state of the		(1)
Notes for AVOIDED costs		didiritie severanden namera springe	Provident : Number and an about a funding	kan danggi ba	(2944)(1.92) · 自转型标、加速等。2	a transcent a residential Ha a fille y	Countries Contrients to 1,149 printing
interduct	ANG PARTE PARTE PARTE	· · · · · · · · · · · · · · · · · · ·					
Approx. Cost of Compliance		andresidades e de servicio de la composición de la composición de la composición de la composición de la compo	material advisor of the con-	, and a second		TOTAL	\$501
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Number of Louisian Propries

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Screening Date	13-Jan-2005 Docket No. 2005-0133-PST-E	PCW
Respondent	Cedar Park E & J, Ltd.	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision December 10, 2004
Reg. Ent. Reference No.	RN101495539	100 100 100 100 100 100 100 100 100 100
이 생생이 하는 아이들 하는 사람들이 가는 사람들이 하는 것이 없는 사람들이 얼굴하게 되었다. 그 사람들이 다른 사람들이 되었다.	Petroleum Storage Tank Registration No. 53512	The state of the s
[1] [1] [1] [1] [2] [2] [2] [2] [2] [2] [2] [2] [2] [2	Petroleum Storage Tank	Signal Control of the State of
Enf. Coordinator	CONTRACTOR OF THE CONTRACT OF	3
Violation Number	6	NATURE CONTRACTOR OF THE PROPERTY OF THE PROPE
Primary Rule Cite(s)	30 Tex. Admin. Code § 334,22(a)	
Secondary Rule Cite(s)	Texas Water Code § 5.702	
	Failure to pay underground storage tank fee for fiscal year 2	2005
Violation Description	Specifically, TCEQ Financial Administration Account No. 00541 found to have an outstanding balance, as documented during review conducted on January 3, 2005.	25U was ∮
	<u> </u>	AMARIA
	S Bas	se Penalty \$10,000
		्र । प्रक्रिकारी क्रान्स्यक्ता
>> Environmental, Pro	perty and Human Health Matrix	m a copia Tanostalo-menos
	Harm	n and Martines
Release	Major Moderate Minor	and was into a w
OR Actual Potential	Percent	Charles to the the the thirty
>> Programmatic Matr	X	-
Falsification	The state of the s	SHOW WELL THE
	Percent	**
/4	The second of th	The second of the second
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Page 14 of 14 05/21/07 H:\ENFORCE\KGilbreth\P S T\Cedar Park E & J\Enf. Docs\revised-PCW.qpw

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This vicinities final figures and thronty (adjusted for limits);

Compliance History

Customer/Respondent/Owner-Operator:

CN601675747

CEDAR PARK E & J, LTD.

Classification: AVERAGE

Rating: 4.500

Regulated Entity:

RN101495539

CEDAR PARK E & J. LTD.

Classification: AVERAGE

Site Rating: 4.50

ID Number(s):

PETROLEUM STORAGE TANK

REGISTRATION

53512

Location:

REGISTRATION

430 N BELL BLVD, CEDAR PARK, TX, 78613

Rating Date: 9/1/04 Repeat Violator: NO

TCEQ Region:

REGION 11 - AUSTIN

Date Compliance History Prepared:

January 13, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

January 13, 2000 to January 13, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History 210-403-4077

Name:

Colin Barth

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

2. Has there been a (known) change in ownership of the site during the compliance period?

No

3. If Yes, who is the current owner?

N/A

4. if Yes, who was/were the prior owner(s)?

N/A

5. When did the change(s) in ownership occur?

N/A

6. Comments:

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 04/24/2000 (149412)

2 12/21/2004 (339784)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/24/2000

(149412)

Classification: Moderate

Self Report? NO Citation:

2D TWC Chapter 26, SubChapter A 26.3475[G]

30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A)

Description: Failed to have a release detection method capable of detecting a release from any portio of the UST system.

Self Report? NO

Citation:

Classification: Moderate

2D TWC Chapter 26, SubChapter A 26.3475[G] 30 TAC Chapter 334, SubChapter A 334.10(b)(2)(B)(i)

30 TAC Chapter 334, SubChapter A 334.10(b)(2)(B)(v)

Description: Failed to maintain and provide release detection records.

Self Report? NO

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.346
30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failed to provide an amended registration for any change or additional information regarding the USTs.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST CEDAR PARK E & J,
LTD.; RN101495539

§	BEFORE THE
§ ·	
§	TEXAS COMMISSION ON
§	,
§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2005-0133-PST-E

I. JURISDICTION AND STIPULATIONS

At its	agenda, the Texas Commission on Environmental Qual	ity
("Commission" or "TCEQ") c	considered this agreement of the parties, resolving an enforcement action	on
regarding Cedar Park E & J, 1	Ltd. under the authority of TEX. WATER CODE chs. 5, 7 and 26. T	he
Executive Director of the TCE	EQ, represented by the Litigation Division, and Cedar Park E $\&$ J, Lt	d.,
appear before the Commission	n and together stipulate that:	

- 1. At the time of the violations, Cedar Park E & J, Ltd. owned a convenience store with retail sales of gasoline at 430 North Bell Boulevard, Cedar Park, Williamson County, Texas (the "Facility").
- 2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
- 3. The Commission and Cedar Park E & J, Ltd. agree that the Commission has jurisdiction to enter this Agreed Order, and that Cedar Park E & J, Ltd. is subject to the Commission's jurisdiction.
- 4. Cedar Park E & J, Ltd. received notice of the violations alleged in Section II ("Allegations") on or about December 26, 2004.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cedar Park E & J, Ltd. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of twenty-three thousand six hundred twenty-five dollars (\$23,625.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial

Administration Division reviewed the financial documentation submitted by Cedar Park E & J, Ltd. and determined that Cedar Park E & J, Ltd. is unable to pay part of the administrative penalty. Therefore, twenty thousand twenty-five dollars (\$20,025.00) of the penalty is deferred contingent upon Cedar Park E & J, Ltd.'s timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Cedar Park E & J, Ltd. fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Cedar Park E & J, Ltd. to pay all or part of the deferred penalty.

Cedar Park E & J, Ltd. has paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in thirty-five monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Cedar Park E & J, Ltd. fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Cedar Park E & J, Ltd. to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Cedar Park E & J, Ltd. have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Cedar Park E & J, Ltd. has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

Cedar Park E & J, Ltd. DOCKET NO. 2005-0133-PST-E Page 3

12. The Executive Director recognizes that Cedar Park E & J, Ltd. no longer owns the property or Facility due to a bank foreclosure.

II. ALLEGATIONS

Cedar Park E & J, Ltd. is alleged to have violated:

- 1. 30 Tex. Admin. Code § 334.51(b)(2)(C) and Tex. Water Code § 26.3475(c)(2) by failing to install overfill prevention equipment on each underground storage tank ("UST"). Specifically, the USTs were not equipped with a valve or other device which is designed to prevent overfill during product transfer, as documented during an inspection and records review conducted on October 20, 2004.
- 2. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing to conduct the annual line leak detector test on each UST to determine performance and operational reliability, as documented during an inspection and records review conducted on October 20, 2004.
- 3. 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a) by failing to make available, to a common carrier, a valid and current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, as documented during an inspection and records review conducted on October 20, 2004.
- 4. 30 Tex. ADMIN. Code § 334.8(c)(5)(B)(ii) by failing to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-Certification Form to the Commission, as documented during an inspection and records review conducted on October 20, 2004.
- 5. 30 Tex. Admin. Code §§ 334.72 and 334.74 by failing to investigate within 30 days suspected releases from three USTs and to report within 24 hours based on statistical inventory reconciliation ("SIR") results. The SIR reports indicated unacceptable results for November 2003 and February, March, and August 2004 for the diesel tank; October 2003 and March 2004 for the premium tank; and January and March 2004 for the unleaded tank, as documented during an inspection and records review conducted on October 20, 2004.
- 6. 30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702 by failing to pay the underground storage tank fee for fiscal year 2005. Specifically, TCEQ Financial Administration Account No. 0054125U was found to have an outstanding balance, as documented during a record review conducted on January 3, 2005.

Cedar Park E & J, Ltd. DOCKET NO. 2005-0133-PST-E Page 4

III. DENIALS

Cedar Park E & J, Ltd. generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Cedar Park E & J, Ltd. pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Cedar Park E & J, Ltd.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Cedar Park E & J, Ltd., Docket No. 2005-0133-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The provisions of this Agreed Order shall apply to and be binding upon Cedar Park E & J, Ltd.. Cedar Park E & J, Ltd. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 3. If Cedar Park E & J, Ltd. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Cedar Park E & J, Ltd.'s failure to comply is not a violation of this Agreed Order. Cedar Park E & J, Ltd. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Cedar Park E & J, Ltd. shall notify the Executive Director within seven days after Cedar Park E & J, Ltd. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Cedar Park E & J, Ltd. shall be made in writing to the Executive Director. Extensions are not effective until Cedar Park E & J, Ltd. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 5. This Agreed Order, issued by the Commission, shall not be admissible against Cedar Park E & J, Ltd. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce

Cedar Park E & J, Ltd. DOCKET NO. 2005-0133-PST-E Page 5

the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

- 6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 7. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Cedar Park E & J, Ltd., or three days after the date on which the Commission mails notice of the Order to Cedar Park E & J, Ltd., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Cedar Park E & J. Ltd. DOCKET NO. 2005-0133-PST-E Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEO, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against
- TCEO seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Edward S. Gernert, Jr., President

Gernert Management, LLC,

General Partner of Cedar Park

E&J, Ltd.